

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-420-C - ORDER NO. 2003-548

SEPTEMBER 5, 2003

IN RE: Application of National Access Long)	ORDER GRANTING
Distance, Inc. for a Certificate of Public)	INTEREXCHANGE
Convenience and Necessity to Operate as a)	AUTHORITY AND
Reseller of Interexchange)	ALTERNATIVE
Telecommunications within the State of)	REGULATION
South Carolina and for Alternative)	
Regulation.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of National Access Long Distance, Inc. ("NALD" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2002) and the general regulatory authority of the Commission. By its Application, NALD also requested alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and requested waiver of certain Commission regulations.

The Commission's Executive Director instructed NALD to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of NALD and of the manner and time in which to file the appropriate

pleadings for participation in the proceeding. NALD complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on July 23, 2003, at 11:30 a.m. in the Commission's Hearing Room, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. NALD was represented by Scott Elliott, Esquire. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

J. Eric Ross, President of the Company, appeared and testified in support of the Application. Mr. Ross explained the nature of NALD's proposed service offering within the State of South Carolina, and provided testimony regarding the Company's financial, managerial, and technical ability to provide the telecommunications services for which the Company seeks to provide.

NALD seeks authority to operate as a reseller of intraLATA and interLATA intrastate telecommunications services to the public on a statewide basis. The Company seeks authority to offer on a resale basis within the South Carolina intrastate, interLATA and, to the extent authorized by the Commission, intraLATA direct-dialed services including "1+" service, flat rate service, 800 inbound service and travel cards. NALD seeks statewide authority to provide intraLATA services authorized by the Commission in Docket Nos. 92-182-C, 92-183-C, and 92-200-C. The Company has no plans at this time to construct any telecommunications transmission facilities of its own and seeks no construction authority. The Company will operate strictly as a reseller. NALD intends to

engage in “switchless” resale; NALD will arrange for the traffic of underlying subscribers to be routed directly over the networks of the Company’s network providers.

NALD intends to utilize AT&T, Global Crossing and Frontier as its underlying carriers. The Company will choose its underlying carriers based upon quality of service of the carrier properly certified by the Commission to provide such service.

The Company is currently authorized to provide intrastate telecommunications services in the following states: Florida, Georgia, Kansas, Kentucky, Maryland, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Dakota, and West Virginia. The testimony reveals that the Company pledges to provide and market interexchange carrier services in accordance with current Commission policies. Further, NALD will at all times provide interstate services in compliance with all FCC rules and regulations. At the time of the hearing, NALD had not provided any intrastate telecommunications services within the State of South Carolina. NALD will charge the tariffed rates approved by the Commission. The record reveals that the Company intends to market its services via direct sales by NALD’s employees and independent sales agents.

Mr. Ross also testified that NALD has sufficient technical, financial, and managerial resources and ability to provide the telecommunications services for which authority is sought. From April 2001 until October 2001, Mr. Ross was employed by The Solomon Page Group as an Executive Recruiter. As an Executive Recruiter, Mr. Ross was responsible for new business development, including sixty outbound calls daily and client maintenance, ranging from Fortune 50 to start-up companies in the Silicon Valley.

Mr. Ross, according to the record, is a National President's Club member, the 2000-2001 Individual Superstar Achievement recipient for top ten performance out of over 300 recruiters world wide, and a nationally certified AOC Perm Mentor.

In support of NALD's financial ability to provide the services sought in the Company's Application, NALD's Balance Sheet and Profit & Loss Statement for the period ending September 30, 2002, and its Balance Sheet and Profit & Loss Statement as of December 31, 2002, were filed with the Commission.

NALD requests that the Commission regulate its long distance business services, consumer card, and operator service offerings in accordance with the principles and procedures established for alternative regulation in Orders Nos. 1995-1734 and 1996-55, which has been modified by Order No. 2001-997-C and which was approved for AT&T and other similarly situated companies. The Company also requests a waiver of the requirements of 26 S.C. Regs. 103-610 which requires a carrier to keep all records required by the Commission's Rules and Regulations within the State of South Carolina. The Company's offices are in California and maintaining the Company's books in South Carolina would be unduly burdensome. NALD will have a registered agent in South Carolina and will bear any costs associated with the Commission's inspection of its books and records.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. NALD is organized as a corporation under the laws of the State of Nevada and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. NALD operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. NALD has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NALD to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for NALD for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. NALD shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. NALD shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

4. With respect to NALD's business services, consumer card, and operator service offerings, the Commission adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to NALD also. These alternative regulation orders were modified by Order No. 2001-997 in Docket No. 2000-

407-C which imposed a cap on operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected the local exchange carrier as their toll provider. The provisions of this Order and this modification also apply to NALD.

5. If it has not already done so by the date of issuance of this Order, NALD shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. NALD is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. NALD shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If NALD changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, NALD shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to

the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, NALD shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. NALD shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, NALD shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations for Interexchange Companies and AOS." This form shall be utilized by the Company to file annual financial information with the Commission, and shall be filed by April 1 of each year. Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year. The appropriate form is entitled "Gross Receipts Form for Utility Companies" and can be found at the Commission's website a www.psc.state.us/forms.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general

management duties as well as emergencies which occur during non-office hours. NALD shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.


13. At the hearing, NALD requested a waiver of Reg. 103-610, which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that NALD’s principal headquarters will be located in California and NALD requests permission to maintain its books and records at its headquarters in that state. The Commission finds NALD’s requested waiver reasonable and understands the difficulty presented to NALD should the waiver not be granted. The Commission therefore grants the requested waiver that NALD be allowed to maintain its books and records at its principal headquarters. However, NALD shall make available its books and records at all reasonable times upon request by the Commission or the Commission Staff, and NALD shall promptly notify the Commission if the location of its books and records changes.

14. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet

provides the Commission Staff information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15th.

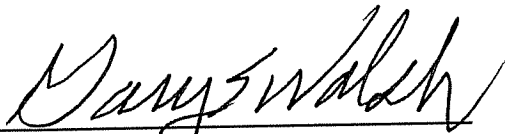
15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Gary E. Walsh
Executive Director

(SEAL)